

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Joint Application of Lodi Gas Storage, L.L.C., Western Hub Properties L.L.C., and WHP Acquisition Company, LLC, to Transfer Control of Lodi Gas Storage, L.L.C., to WHP Acquisition Company, LLC, Which Will Occur Indirectly as a Result of the Purchase of Western Hub Properties L.L.C. by WHP Acquisition Company, LLC, Pursuant to Public Utilities Code Section 854(a) and of Lodi Gas Storage, L.L.C. for Approval of a Secured Long-Term Financing Pursuant to Public Utilities Code Sections 816, 817, 818, 823 and 851.

Application 01-09-045
(Filed September 28, 2001)

**ASSIGNED COMMISSIONER'S RULING
SETTING ASIDE SUBMISSION AND REQUIRING INFORMATION
ON REPORTED SALE OF LODI GAS STORAGE, L.L.C.**

On August 7, 2002, the draft decision of the assigned administrative law judge and my alternate draft decision were mailed for comment. That same day a troubling news article appeared in the industry publication *Gas Daily* and I am setting aside submission of this proceeding in order to obtain additional information from Joint Applicants about the matter reported.

The August 7th edition of *Gas Daily* reported, at page 7: "Aquila said it is seeking a buyer for the group's gas assets including its Katy and Lodi storage, ownership in Oasis Pipeline, natural gas liquids transmission and storage assets and some gas storage holdings in Europe."

The August 8th edition of *Gas Daily*, at page 3, contains the following correction:

Due to inaccurate information provided by the company, a story appearing in the Aug. 7 issue of *Gas Daily* mistakenly indicated Aquila has put its Lodi storage assets up for sale. Aquila confirmed Wednesday that it is committed to continuing development of its Western gas storage properties, including Lodi in California and Red Lake in Arizona.

However, an August 8 report from the news service *Reuters* (London) states:

Scottish Power Plc on Thursday took advantage of a fire sale of assets by loss-making U.S. energy group Aquila, paying \$180 million for its Katy gas storage facility in Texas and four other storage projects.

The British utility, which owns U.S. power provider PacifiCorp, said it expected the deal to be earnings enhancing in the first full year of ownership.

The report of the transfer of control of Lodi Gas Storage L.L.C. (LGS) and its Lodi Facility to Aquila Inc. (Aquila) is troubling because Joint Applicants' application for transfer authority is pending before this Commission and has not been approved. In fact, as of the time of publication of the August 7 *Gas Daily* article, the Commission had not issued a draft decision.

Joint Applicants are directed to answer the following questions in order to supplement the record:

1. On or about August 7, 2002, did Joint Applicants, or any of them, or did any of their affiliates or corporate parents publicly report the pending sale of LGS by Aquila or any of its affiliates (whether to *Gas Daily* or any other person or entity)?
2. Have Joint Applicants, their affiliates, or corporate parents, in particular Aquila, had any discussions to date about selling, transferring or

otherwise disposing of LGS once regulatory approval for the pending transfer (i.e. in A.01-09-045) has been obtained?

3. If discussions responsive to Question 2 have occurred, please describe how the contemplated, subsequent transfer(s) would affect gas storage and the gas industry in California.
4. Please include any additional information you think is relevant.

The response shall be titled “Response to Assigned Commissioner’s Ruling Requiring Information on Reported Sale of Lodi Gas Storage L.L.C.,” shall be verified by an affidavit or declaration under penalty of perjury executed by a knowledgeable corporate official or representative of each of Joint Applicants, and shall be filed in this proceeding on or before August 26, 2002.

IT IS RULED that:

1. Joint Applicants are directed to supplement the record by responding to the questions set out in this ruling.
2. The response shall be entitled “Response to Assigned Commissioner’s Ruling Requiring Information on Reported Sale of Lodi Gas Storage L.L.C.,” shall be verified by an affidavit or declaration under penalty of perjury executed by a knowledgeable corporate official or representative of each of Joint Applicants, and shall be filed in this proceeding on or before August 26, 2002.

Dated August 15, 2002, at San Francisco, California.

/s/ Loretta Lynch
Loretta Lynch
Assigned Commissioner

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Assigned Commissioner's Ruling Setting Aside Submission and Requiring Information on Reported Sale of Lodi Gas Storage, L.L.C. on all parties of record in this proceeding or their attorneys of record.

Dated August 15, 2002, at San Francisco, California.

/s/ Antonina V. Swansen
Antonina V. Swansen

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074, TTY 1-866-836-7825 or (415) 703-5282 at least three working days in advance of the event.